IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.5322 of 2005

Ms Radhika Chetan Seth .Petitioner

vs

Mr Chetan Madusudhan Sheth..Respondents

Mrs Poonam Trivedi for petitioner

Mr K P Upadhyay for respondent

CORAM: S.U.KAMDAR J.

Dated 8.l2.2005

P.C:

. The petition is challenging the impugned order dated l9.5.2005 passed by the learned family court Judge by which the order of maintenance which was fixed at Rs.l4,000 has been reduced to Rs.5000 per month. The only ground given in para 5 of the order is that after the order is passed the petitioner has produced his income tax return showing that he has insufficient income to pay Rs.l4,000 per month. The respondent was heard at the time of fixing the maintenance of Rs.l4,000. There is no change of circumstance calling for modification of the order passed earlier fixing the maintenance amount. In that view of the matter the impugned order is unsustainable in law and the same is liable to be quashed and set aside. It is the case of the respondent that he is a LIC agent and

his income is meagre and for that purpose he relies upon the income tax return. In the facts and circumstances of the case, in my opinion, fixation of Rs l4,000 per month to the petitioner- wife is not unjustifiable when the petitioner is admittedly not working and the said amount of Rs.l4000 is for the maintenance of the petitioner and her child both.

. Accordingly petition is made absolute. The impugned order is quashed and set aside. The earlier order fixing maintenance of Rs l4,000 is confirmed. Certified copy expedited.